

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Dan Galai et al.

Art Unit : 3624

Serial No. : 10/753,131

Examiner : Lalita M. Hamilton

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Title : DIVERSIFICATION OF RISK FOR ARTISTS AND INVESTORS

MAIL STOP Appeal Brief--Patents

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

AMENDMENT ACCOMPANYING APPEAL BRIEF
PURSUANT TO 37 C.F.R. § 41.33(B)(2)

Please amend the application as indicated on the following pages. This amendment accompanies an appeal brief and rewrites dependent claims 25 and 26 in independent form, as permitted under 37 C.F.R. § 41.33(b)(2).

CERTIFICATE OF MAILING BY FIRST CLASS MAIL

I hereby certify under 37 CFR §1.8(a) that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage on the date indicated below and is addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Date of Deposit

October 3, 2005

Signature

Paula T. Romeo

PAULA T. ROMEO

Typed or Printed Name of Person Signing Certificate

Amendments to the Claims:

This listing of claims replaces all prior versions and listings of claims in the application:

Listing of Claims:

1. (Previously presented) A method for the diversification of risk in connection with works of art, the method comprising:
 - accepting from each of a plurality of artists one or more works of art to be pooled in a collective investment fund;
 - issuing a financial instrument to each particular artist in consideration for one or more works of art contributed by that artist to the fund;
 - generating revenues on behalf of the fund through commercialization of the works of art in the fund; and
 - distributing a portion of the revenues among the artists participating in the fund according to vested interests in the financial instruments held by the artists, wherein each particular artist having a vested interest in one of the financial instruments is entitled to receive an amount of the revenues based on the collective commercial success of the works of art contributed to the fund by all the artists.
2. (Original) The method of claim 1 including receiving works of art for the fund from each artist according to a predetermined schedule.
3. (Original) The method of claim 1 wherein the financial instrument comprises a warrant that may be exercised by the particular artist after a specified vesting period.
4. (Original) The method of claim 3 wherein the warrant may be exercised by the particular artist after the vesting period only if the artist is still participating in the fund.

5. (Original) The method of claim 4 wherein the artist is deemed to still be participating in the fund only if the artist has contributed works of art to the fund according to a specified schedule.

6. (Original) The method of claim 3 wherein, upon exercising the warrant, the artist is entitled to a specified portion of future revenues distributed by the fund.

7. (Original) The method of claim 1 wherein distribution of revenue to the artists begins only after a specified period since the fund opened.

8. (Original) The method of claim 1 wherein the financial instrument comprises an equity instrument that entitles the artist to a specified portion of future revenues distributed by the fund.

9. (Original) The method of claim 1 wherein the works of art comprise visual works of art.

10. (Original) The method of claim 1 including having each work of art reviewed by a committee to determine whether the work of art should be accepted into the fund.

11. (Original) The method of claim 1 including transferring ownership of the works of art to an entity that manages the fund.

12. (Original) The method of claim 1 including issuing financial instruments, each of which represents one or more shares in the fund, to one or more entities other than the artists participating in the fund, wherein each share entitles the entity owning the financial instrument to a specified amount of future revenue generated by the fund.

13. (Original) The method of claim 1 including selecting artists to participate in the collective investment fund.

14. (Original) The method of claim 1 wherein a particular artist having a vested interest in one of the financial instruments is further entitled to receive an amount of the revenues based on the commercial success of the works of art contributed to the fund by that particular artist.

15. (Previously presented) A system for distributing revenues in connection with works of art comprising:

- a first database storing information about each of a plurality of artists and about one or more works of art accepted from each artist, wherein the works of art are pooled in a collective investment fund;

- a second database storing information about financial instruments issued to each of the artists in consideration for one or more works of art contributed by the artists to the fund;

- a third database storing information about revenues obtained on behalf of the fund through commercialization of the works of art in the fund; and

- a computer system coupled to each database, wherein the computer system is adapted to cause the distribution of a portion of the revenues among the artists participating in the fund according to vested interests in the financial instruments held by the artists, wherein each particular artist having a vested interest in one of the financial instruments is entitled to receive an amount of the revenues based on the collective commercial success of the works of art contributed to the fund by all the artists.

16. (Original) The system of claim 15 wherein the first database stores information about works of art received from each artist according to a predetermined schedule.

17. (Original) The system of claim 15 wherein each financial instrument comprises a warrant, and wherein the second database stores information about a vesting period after which the warrant may be exercised by a particular artist holding the warrant.

18. (Original) The system of claim 17 wherein the warrant may be exercised by the particular artist after the vesting period only if the particular artist is still participating in the fund.

19. (Original) The system of claim 18 wherein the artist is deemed to still be participating in the fund only if the particular artist has contributed works of art to the fund according to a specified schedule.

20. (Original) The system of claim 17 wherein the second database stores information about a specified portion of future revenues to be distributed by the fund to the particular artist upon exercising the warrant.

21. (Original) The system of claim 15 wherein the computer system is adapted to begin distribution of revenue to the artists only after a specified period since the fund opened.

22. (Original) The system of claim 15 wherein the second database stores information about financial instruments each of which comprises an equity instrument that entitles the artist to a specified portion of future revenues distributed by the fund.

23. (Original) The system of claim 15 wherein first database stores information about works of art that comprise visual works of art.

24. (Original) The system of claim 15 including a database that stores information about financial instruments, each of which represents one or more shares in the fund and which was

issued to an entity other than an artist participating in the fund, wherein each share entitles the entity owning the financial instrument to a specified amount of future revenue generated by the fund.

25. (Currently amended) ~~The method of claim 1~~

A method for the diversification of risk in connection with works of art, the method comprising:

accepting from each of a plurality of artists one or more works of art to be pooled in a collective investment fund;

issuing a financial instrument to each particular artist in consideration for one or more works of art contributed by that artist to the fund;

generating revenues on behalf of the fund through commercialization of the works of art in the fund; and

distributing a portion of the revenues among the artists participating in the fund according to vested interests in the financial instruments held by the artists, wherein each particular artist having a vested interest in one of the financial instruments is entitled to receive an amount of the revenues based on the collective commercial success of the works of art contributed to the fund by all the artists, wherein the portion of the revenues is distributed electronically among the artists participating in the fund.

26. (Currently amended) ~~The method of claim 1 including~~

A method for the diversification of risk in connection with works of art, the method comprising:

accepting from each of a plurality of artists one or more works of art to be pooled in a collective investment fund;

issuing a financial instrument to each particular artist in consideration for one or more works of art contributed by that artist to the fund;

generating revenues on behalf of the fund through commercialization of the works of art in the fund; and

distributing a portion of the revenues among the artists participating in the fund according to vested interests in the financial instruments held by the artists, wherein each particular artist having a vested interest in one of the financial instruments is entitled to receive an amount of the revenues based on the collective commercial success of the works of art contributed to the fund by all the artists,

wherein the method includes automated transfer of the portion of the revenues among the artists participating in the fund.

REMARKS

This amendment accompanies an appeal brief.

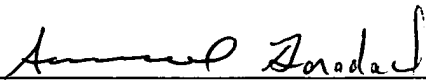
Dependent claims 25 and 26 have been rewritten in independent form to include the features of claim 1 from which they depended. The amendment is pursuant to 37 C.F.R. § 41.33(b)(2).

The amendments should be entered because the basis of rejection (*i.e.*, 35 U.S.C. § 103) of claims 25 and 26 in the final Office action is different from the basis of rejection (*i.e.*, 35 U.S.C. §§ 101 and 103) of claim 1.

The required fee of \$200 in payment for the two additional independent claims was submitted with the Amendment filed on June 9, 2005. Enclosed is a check for the Petition for Extension of Time fee. Please apply any other charges or credits to Deposit Account No. 06-1050.

Respectfully submitted,

Date: 10/3/05



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